

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE R. LACEN,

Plaintiff,

-against-

EMTC CAPTAIN AYGEMONG (CLINIC
CAPTAIN); “JOHN DOE” EMTC INTAKE
C-76 CAPTAIN DUTY OFFICER; JANE
RUNCIE RPA C-76 CLINIC; ACHIM
HUGGINS M.D. C-76 CLINIC; IAN
WILLIAM FORSTER; DAVID ONUORA
P.A.; SAI KOLLA, M.D.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 3/29/2021

19-CV-5097 (AT)

ORDER DIRECTING PAYMENT OF
COSTS OF PERSONAL SERVICE

ANALISA TORRES, United States District Judge:

On August 23, 2019, a Deputy United States Marshal signed two Process Receipt and Return forms stating that after defendants Dr. Kolla and Registered Physician Assistant Runcie failed to acknowledge service by mail under N.Y.C.P.L.R. § 312-a, the Deputy Marshal served those defendants personally at PAGNY Correctional Health Services,¹ 49-04 19th Avenue, Astoria, NY. (ECF 17, 18.) The cost of personal service on each defendant was \$101.48. (*Id.*)

When a defendant fails to complete and return an Acknowledgment of Receipt of Summons and Complaint within thirty days of receipt, the defendant “will be required to pay expenses incurred in serving the summons and complaint . . . in any . . . manner permitted by law, and the cost of such service . . . will be entered as a judgment against [that defendant].”

¹ In response to a prior order imposing costs on PAGNY employees, General Counsel for PAGNY stated that PAGNY has “worked diligently to develop and put in place various processes to avoid unnecessary expense for personal service.” (Aug. 27, 2018 letter from PAGNY General Counsel to Judge Furman, ECF 1:17-cv-10106, 38-1.) That process appears to have worked for other defendants, such as David Onuora, *see* ECF 11. The Court appreciates these efforts and hopes that they will continue.

N.Y.C.P.L.R. § 312-a; *see also* Fed. R. Civ. P. 4(e)(1) (individual may be served by following state law for serving a summons); Fed. R. Civ. P. 4(d)(1) (a defendant has “a duty to avoid unnecessary expenses of serving the summons”).

The United States Marshals Service (“USMS”) mailed the acknowledgment form to defendants Kolla and Runcie on July 13, 2019. The acknowledgment clearly states that to “avoid being charged with the expense of service,” a defendant must complete and sign the form and return it to the USMS within 30 days of the date of receipt, and that if a defendant does not return it, the costs of service “will be entered as a judgment against” that defendant. Nonetheless, defendants Kolla and Runcie did not return the form, and on August 23, 2019, a Deputy Marshal served those defendants personally, at a cost of \$101.48 per defendant.

Accordingly, defendants Kolla and Runcie must each pay to the USMS the sum of \$101.48, representing the cost of personal service of process.

CONCLUSION

The Clerk of Court is directed to enter judgment against defendant Kolla in the amount of \$101.48, and to enter judgment against defendant Runcie in the amount of \$101.48. These amounts represent the cost of personal service of process on those defendants.


Defendants Kolla and Runcie are ordered to pay this amount to the United States Marshals Service, Attn: Civil Section, 500 Pearl Street, Suite 400, New York, NY 10007, by May 31, 2021.

The Marshals Service will accept payment in the form of a money order or business check. Defendants Kolla and Runcie must also each inform the Court that payment has been made.

The Clerk of Court is directed to mail a copy of this order to: Diana Goell Voigt, General Counsel, Physician Affiliate Group of New York, P.C., 55 West 125th Street Suite 1001, New York, NY 10027.

SO ORDERED.

Dated: March 29, 2021
New York, New York



ANALISA TORRES
United States District Judge